

REMARKS

The office action of August 5, 2010, has been carefully reviewed. These comments are responsive thereto. Claims 1, 2, 5, 7, 12, 15, and 18 have been amended. Support for the amendments may be found in various paragraphs including [0027], [0031], and [00234]. No new matter has been entered.

Indication of Allowable Subject Matter

Applicants appreciate the examiner's indication that the application contains allowable subject matter.

Objection to the Abstract

The Examiner objected to the abstract. Applicants amend the abstract to overcome the examiner's objection.

Objection to the Declaration

The Examiner objected to the declaration. Applicants traverse the examiner's objection as Director Dudas waived the requirement that all declarations specifically identify 37 CFR 1.56 as a whole, compared to specific identification of 37 CFR 1.56(a). See the attached OG Notice (1327 OG 112) of January 22, 2008 (page 2, second paragraph). As this application was filed before January 1, 2008, applicants submit the examiner's requirement for a new declaration is incorrect.

Rejection of Claims 2-17 and 20 under 35 USC § 112, Second Paragraph

Claims 2-17 and 20 stand rejected under 35 USC § 112, second paragraph. Applicants traverse the rejection. Claims 2, 5, 7, and 15 have been amended to overcome the rejection.

Rejection of Claims 1-4, 11, and 21 under 35 USC § 102(e) over Fujisato

Claims 1-4, 11, and 21 stand rejected under 35 USC § 102(e) under Fujisato. Applicants traverse the rejection.

Claim 1 as amended recites:

wherein the vortical flow reaching the water-spray plate is spouted forward from the water-spray holes.

Fujisato (JP 2003-038382) merely discloses that liquid flows from a flow-out portion to an outside of a suction-cleansing device. Therefore, the water film cannot be formed by the water flow between the suction-cleansing device and the site on the person's skin (being subject to treatment).

In contrast, according to amended claims 1 and 2, the "vortical flow reaching the water-spray plate is spouted forward from the water-spray holes." As a result, the water film formed by the water flow always exists between the water-spray plate and the site on the person's skin. Because Fujisato fails to provide the combination of elements of claim 1, Fujisato cannot anticipate claim 1. Accordingly, claim 1 is allowable over Fujisato.

Claim 2 is likewise allowable.

Claims 3-4, 11, and 21 are similarly allowable.

Rejection of Claims 12-15 and 20 under 35 USC § 102(b) over Jaworski

Claims 12-15 and 20 stand rejected under 35 USC § 102(b) under Jaworski. Applicants traverse the rejection.

Claim 12 as amended recites:

a vortex chamber having a water intake section provided to form vortical flow therein and a spouting port provided to spout the vortical flow to form a negative pressure region; and

a movable member having an opening, at least some part of which is inserted into the vortex chamber, the opening being provided to effect the negative pressure region externally, the at least some part including a first portion which has a larger outside dimension than the spouting port, the moveable member being moved by effect due to the vortical flow.

Jaworski discloses a nozzle with a universal swivel motion. However, Jaworski fails to disclose producing the vortical flow in a chamber.

Accordingly, the nozzle cannot then be moved by the vortical flow from the chamber as recited in claim 1.

Rejection of Claims 4-5 under 35 USC § 103) over Fujisato

Claims 4-5 stand rejected under 35 USC § 103 over Fujisato. Applicants traverse the rejection.

The examiner's modifications of Fujisato do not address the shortcomings of Fujisato described above. Accordingly, claims 4 and 5 are allowable at least as being dependent on claim 2.

Applicants submit the application is in condition for allowance.

If any fees are due, the Director is authorized to debit deposit account number 19-0733 in the appropriate amount.

Respectfully submitted,
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Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications**Duty of Disclosure Language Set Forth in Oaths or Declarations
Filed in Nonprovisional Patent Applications****Summary:**

The United States Patent and Trademark Office (Office) will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). This notice applies to oaths or declarations filed in all nonprovisional patent applications, including reissue applications.

Background:

Current 37 CFR 1.63 sets forth the requirements for an oath or declaration filed in a nonprovisional patent application. 37 CFR 1.63(b)(3) sets forth what the person making the oath or declaration must state when acknowledging the duty of disclosure. Specifically, 37 CFR 1.63(b)(3) requires persons making an oath or declaration to state that they acknowledge their duty to disclose to the Office all information known to the person to be "material to patentability as defined in § 1.56." This language is incorporated in: 37 CFR 1.153, which sets forth the requirements for an oath or declaration in a design application; 37 CFR 1.162, which sets forth the requirements for an oath or declaration in plant patent applications; and 37 CFR 1.175 which sets forth the requirements for an oath or declaration in a reissue application.

In 1992, the Office amended 37 CFR 1.63 to conform to amendments made in 37 CFR 1.56. See Duty of Disclosure, 57 FR 2021 (January 17, 1992) (final rule). The amendments to 37 CFR 1.63(b)(3) resulted in "material to patentability as defined in § 1.56" replacing "material to the examination of the application in accordance with § 1.56(a)." Despite this amendment to 37 CFR 1.63(b)(3), some applicants in their oaths or declarations continue to use "material to the examination of the application" in place of "material to patentability," and "in accordance with § 1.56(a)" in place of "as defined in § 1.56." In response to proper objections made during the examination of pending patent applications, practitioners have argued that the oaths and declarations executed by applicants with the outdated language in question are proper and meet the requirements set forth in 37 CFR 1.63 in view of Comment 38 and the accompanying Reply in the 1992 Final Rule. See Duty of Disclosure at 2027. Additionally, these practitioners have argued that the outdated language should be accepted because the Office has not routinely enforced strict compliance with current 37 CFR 1.63, as evidenced by the number of pending patent applications and issued patents containing oaths or declarations with the outdated "material to examination" and "in accordance with 37 CFR 1.56(a)," language.

Revised Procedure:

With this Notice, the Office is putting applicants and their representatives on notice that compliance with the express language of 37 CFR 1.63 will now be required. Additionally, to the extent the Reply to Comment 38 in the 1992 Final Rule authorized the continued use of the "material to examination" and "in accordance with 37 CFR 1.56(a)," language, this authorization it is hereby rescinded, and reliance on the Reply to Comments 38 will no longer be accepted. If an oath or declaration filed on or after June 1, 2008, does not include the express language set forth in 37 CFR 1.63(b)(3), the Office will object to the oath or declaration as failing to comply with 37 CFR 1.63. A supplemental oath or declaration pursuant to 37 CFR 1.67 will then be required.

For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or

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declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

For continuing applications filed under 37 CFR 1.53(b), other than continuation-in-part applications, the Office will accept an oath or declaration that contains the outdated language if the oath or declaration otherwise complies with 37 CFR 1.63, and either: (1) was filed prior to June 1, 2008; or (2) is being filed in a continuation or divisional application in which a claim for benefit under 35 U.S.C. 120 has been made to a prior-filed copending nonprovisional application, and the oath or declaration is a copy of the previously accepted oath or declaration that was filed prior to June 1, 2008.

For issued patents, the Office is hereby waiving nunc pro tunc the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. As stated above, the express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. Any supplemental oath or declaration filed for an issued patent may simply be placed in the patent application file without review or comment.

While not required, patentees and applicants are free to submit newly executed oaths or declarations with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

Applicants are advised that, notwithstanding the waiver in the preceding paragraphs, an applicant who has not disclosed information that is material to patentability as defined in current 37 CFR 1.56, because it was believed that the information was not "material to examination," should disclose such information in order to discharge the applicant's duty of disclosure

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as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

Questions about this notice may be directed to the Office of Patent Legal Administration at (571) 272-7701 or electronic mail message to PatentPractice@uspto.gov.

January 22, 2008

JON W. DUDAS

Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office